



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: May 9, 2007 REPORT NO.: 07-088

ATTENTION: Council President and City Council

SUBJECT: Docket of May 14, 2007  
McKinnon Residence, Easement Abandonment, Site Development  
Permit, Coastal Development Permit, Project No. 51161, Council  
District 2, Process Five.

REFERENCE: Report to the Planning Commission No. PC-07-035

OWNER: Dan McKinnon

APPLICANT: Steven Doctor, C&SD Construction

**REQUESTED ACTION:** Should the City Council approve a Site Development Permit and Coastal Development Permit to demolish an existing one-story, single-family residence, to construct a two-story, single-family residence at 3300 Kellogg Way within the Peninsula Community Planning area; and an Easement Abandonment to abandon the on-site public sewer main, and construct a replacement private sewer lateral?

**STAFF RECOMMENDATION:**

1. **CERTIFY** Negative Declaration No. 51161;
2. **APPROVE** Easement Abandonment 404901;
3. **APPROVE** Site Development Permit No. 147529; and
4. **APPROVE** Coastal Development Permit No. 147413.

**SUMMARY**

**Project Description:**

This project proposes to demolish an existing one-story, non-historic, single-family home (built in 1951), and to construct a two-story single-family home with an attached two-car garage, and four off-street guest parking spaces, in the La Playa Area of the Peninsula Community on a 63,646 square foot (1.46 acre) developed lot within the RS-1-4 zone of the Coastal Overlay Zone (appealable), First Public Roadway, and Coastal Height Limit Overlay Zone. The subject lot is located in a gated community at 3300 Kellogg Way in the southern portion of the Peninsula Community overlooking San Diego Bay and Shelter Island east of the project site.

The developed lot contains Steep Hillside as regulated by the Environmentally Sensitive Lands (ESL) regulations of the San Diego Municipal Code (SDMC). These regulations normally prohibit a project from directing drainage into ESL. However, for this site location due to topography, direction of existing site drainage into the ESL, and configuration of the private road of Kellogg Way, staff believes that the requirement to direct drainage away from the steep slopes would cause undue hardship on the owner and is therefore recommending to grant the deviation, as processed through a Site Development Permit, in accordance with the procedures of the SDMC ESL regulations.

The project also involves abandonment of a public sewer easement and six-inch public sewer main, which run directly under the existing residence. Approval of the easement abandonment, pursuant to SDMC Section 112.0131, requires approval by the City Council, following a recommendation of the Planning Commission. In accordance with the Municipal Code, all discretionary actions must be consolidated and processed together, resulting in consideration of the Coastal Development Permit, Site Development Permit, and Easement Abandonment by the City Council. The action before the Planning Commission is to make a recommendation to City Council for the Process 5 action. If the project did not involve the easement abandonment, it would have been considered by a Hearing Officer as a Process 3 action.

The project scope includes landscaping, stormwater runoff controls, installation of a residential fire sprinkler system, and construction of a new sewer lateral for the adjacent residence. The project site is up-gradient from, and not affected by, the U.S. Navy site to the south. Development of the project includes approximately 220 feet of retaining wall, up to 13 feet high along the slopes behind the required setbacks, and six feet high or less within the setback (rear and side), screened with landscaping.

### **Community Plan and Zone**

The project site is within the La Playa neighborhood of the Peninsula Community Plan and Local Coastal Program Plan near the boundary with the Wooded Area neighborhood [Attachment 3]. The location is on a private street in a gated community offering views of San Diego Bay. The lots in this community area are generally large, single-family lots. The designated land use for this area is single family residential, and is classified as a Protected Single-Family neighborhood, by the Community Plan. Redevelopment of the site would be consistent with the goal of the Community Plan to preserve neighborhood character. The immediate neighborhood is generally characterized by newer, larger construction. Approximately 21 shade trees would be planted on site, and an existing Torrey Pine would remain, protected in place.

The maximum permitted density of this area is four dwelling units per acre. With one structure proposed on a 1.46 acre lot, the project complies with the recommended density of the Community Plan and the Zone. The project would observe the required setbacks. The minimum required front setback is 20 feet, where 20 feet is proposed. The side setbacks are determined in accordance with SDMC Section 131.0443(a)(3)(E) for irregular lots and vary from 48 feet on the northern portion adjacent to the steep slope areas, to eight feet along the southern property line adjacent to the neighboring house at 3311 Kellogg Way. The rear setback required is 24 feet (SDMC Section 131.0443(a)(4)(A)(ii)) determined as 10% of the lot

depth (240 feet), where 24 feet is provided. The allowable Floor Area Ratio (FAR) is 45% where 17% is proposed. Approximately 66% of the project site was previously disturbed. Approximately 66% of the site (0.97 acres) is proposed to be disturbed over the same disturbance footprint. Approximately 33% of the site is natural slopes and would remain undisturbed with no encroachment into the natural slopes.

### **Drainage Deviation**

Elevations at the project site range from approximately 295 feet above mean sea level in the southwestern corner, to approximately 170 feet in the northeastern corner, across a lot approximately 240 x 290 feet (irregular). However, the existing site has previously-graded pads for the existing structure at an elevation of approximately 275 feet, as accessed by a driveway approximately 10-15 feet higher leading to the private drive of Kellogg Way above. The north, northeastern, east, and southeastern portions of the site are characterized by a steeply-descending, west-trending finger canyon. The natural drainage pattern on the site is toward the rear of the lot into the natural canyon system. The northerly and easterly portions of the site are subject to the Environmentally Sensitive Lands (ESL) regulations of the Municipal Code. The vegetation on site is predominantly ornamental, contains no native habitat, and is not located within or adjacent to Multi-Habitat Planning Area (MHPA).

Kellogg Way is a private road which does not include curb, gutter, sidewalk, or storm drain. Current drainage of the property flows naturally onto the surrounding open space. The economic impact of collecting and diverting site drainage by way of a pump station to Kellogg Way is not a viable use of the property as Kellogg Way does not have the necessary infrastructure (curb and gutter) to accommodate the runoff. The cost of improving Kellogg Way to provide the necessary infrastructure, and to construct the pump station, is estimated to exceed \$565,389 [Attachment 6]. These costs are not considered reasonable, investment-backed expectations for viable use of the property. Due to the cost to the applicant to construct the required infrastructure to redirect site drainage, a deviation is requested pursuant to SDMC Section 143.0150, to deviate from SDMC Section 143.0142, to allow drainage flow to continue to follow the natural drainage pattern to the steep slope area along the eastern property line. Staff supports the deviation request.

Drainage from the site would be collected and treated by a biofilter drainage ditch and catch basin in conjunction with the required construction runoff controls. Landscape review specifically considered the issue of slope stability and erosion control. While landscape review is not normally required for single-family construction in a single-family zone, it was required for this project as staff considered it appropriate for protection of public health and safety. A grading permit would likewise be required prior to commencement of construction activities.

### **Geology**

The project site includes Geologic Hazard Category 12 (fault zone). As such, a *Report of Preliminary Geotechnical Investigation* and *Addendum* were prepared and reviewed by city staff. No geotechnical conditions were found that would preclude safe construction of the project [Attachment 7]. Existing fill on the site would be removed and recompacted. Soil nailing and shotcrete retaining walls, carved to mimic existing slope formations, are proposed

in eroded areas of the slope to achieve a slope stability factor of safety of 1.5 or greater as required. Construction activities associated with the slope stabilization would be conducted from the subject property from the top of the slope.

### **Easement Abandonment**

The existing residential structure sits over a public sewer easement as recorded in 1948, and six-inch sewer main providing service only to 3311 Kellogg Way (adjacent parcel to the south) and 3300 Kellogg Way (project location). The project must abandon that public easement (approximately 0.05 acres) and construct a private sewer lateral to serve the project, connecting to the existing public six-inch sewer main in Kellogg Way [Attachment 6]. Configuration of the existing and proposed easements and laterals affect both 3311 Kellogg Way and 3300 Kellogg Way, both of which require abandonment of the public easement, re-designating to private ownership. The adjacent parcel at 3311 Kellogg Way would be served by a private sewer easement for a new sewer lateral (approximately 215 linear feet) from the project site at 3300 Kellogg Way. Both property owners agree with the proposed sewer abandonment. Therefore, approval of the Easement Abandonment is subject to abandonment of the on site public sewer main, and construction of a replacement private sewer lateral and granting a minimum 15-foot wide private easement benefiting the subject neighboring property owner. The easement will be centered over the new lateral.

In parallel with processing of the application to City Council for approval of the Easement Abandonment, the Metropolitan Wastewater Department agrees that the applicant may seek to obtain a ministerial permit to install a new sewer lateral, obtain a new easement for that new lateral, because these are not directly dependent actions, and are therefore not subject to consolidation of processing according to SDMC Section 112.0103. If the applicant elects not to initiate permitting and construction of the new sewer lateral prior to the City Council hearing, the easement abandonment would be conditioned upon relocation of the lateral.

### **Planning Commission Recommendation**

On February 15, 2007, the Planning Commission voted unanimously (6-0) to recommend approval of the project to City Council.

### **Conclusion**

The proposed project would not adversely affect the Peninsula Community Plan and Local Coastal Program Plan, and would be in conformance with the Municipal Code, the Progress Guide and General Plan. Staff recommends Council certify Negative Declaration 51161, approve Coastal Development Permit No. 147413, approve Site Development Permit No. 147529, and approve Easement Abandonment No. 404901.

**FISCAL CONSIDERATIONS:** None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: In January 2005, the Peninsula Community Planning Board 12-0-1 to recommend approval of the requested deviation and permit

KEY STAKEHOLDERS & PROJECTED IMPACTS:

- Dan McKinnon, owner
- Steven Doctor, agent for owner

 _____ Marcela Escobar-Eck Director Development Services Department	 _____ James T. Waring Deputy Chief of Land Use and Economic Development
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ATTACHMENTS:

1. Presentation
2. Easement Abandonment B-Sheet and Project Plans
3. Geotechnical Evaluation Summary
4. Statement of Economic Hardship
5. Ownership Disclosure Statement
6. Community Planning Group Recommendation
7. Planning Commission Minutes and Resolution of Recommendation
8. Site/Coastal Development Permit
9. Permit Resolution with Findings
10. Environmental Resolution
11. Easement Abandonment Resolution
12. Report to Planning Commission